

House Bill 1321 (AS PASSED HOUSE AND SENATE)

By: Representatives Harbin of the 118<sup>th</sup> and Ehrhart of the 36<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia  
2 Annotated, the "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," so as  
3 to provide an additional use for Emergency Telephone System Fund moneys; to amend Code  
4 Section 50-18-72, relating to exceptions to the requirement for disclosure of public records,  
5 so as to provide for exemption from disclosure of certain law enforcement and emergency  
6 response records which contain audio or video recordings of personal suffering; to provide  
7 for release to a victim's next of kin; to provide for judicial action; to provide for notification;  
8 to provide for viewing of such material by the press; to provide for disclosure under certain  
9 conditions; to provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, the  
13 "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," is amended by revising  
14 subsection (f) of Code Section 46-5-134, relating to the establishment of the Emergency  
15 Telephone System Fund, as follows:

16 "(f) In addition to cost recovery as provided in subsection (e) of this Code section, money  
17 from the Emergency Telephone System Fund shall be used only to pay for:

18 (1) The lease, purchase, or maintenance of emergency telephone equipment, including  
19 necessary computer hardware, software, and data base provisioning; addressing; and  
20 nonrecurring costs of establishing a 9-1-1 system;

21 (2) The rates associated with the service supplier's 9-1-1 service and other service  
22 supplier's recurring charges;

23 (3) The actual cost of salaries, including benefits, of employees hired by the local  
24 government solely for the operation and maintenance of the emergency 9-1-1 system and  
25 the actual cost of training such of those employees who work as dispatchers or who work  
26 as directors as that term is defined in Code Section 46-5-138.2;

(4) Office supplies of the public safety answering points used directly in providing emergency 9-1-1 system services;

(5) The cost of leasing or purchasing a building used as a public safety answering point. Moneys from the fund ~~cannot~~ shall not be used for the construction or lease of an emergency 9-1-1 system building until the local government has completed its street addressing plan;

(6) The lease, purchase, or maintenance of computer hardware and software used at a public safety answering point, including computer-assisted dispatch systems;

(7) Supplies directly related to providing emergency 9-1-1 system services, including the cost of printing emergency 9-1-1 system public education materials; ~~and~~

(8) The lease, purchase, or maintenance of logging recorders used at a public safety answering point to record telephone and radio traffic; and

(9) The lease, purchase, or maintenance of equipment and associated hardware and software that furthers the legislative intent of providing the highest level of emergency response service on a local, regional, and state-wide basis, including equipment and associated hardware and software that supports the use of public safety wireless voice and data communication systems and the operable and interoperable communication capabilities of 9-1-1 service, but only if:

(A) The local government's 9-1-1 system provides enhanced 9-1-1 service;

(B) The revenues from 9-1-1 charges or wireless enhanced 9-1-1 charges in the local government's Emergency Telephone System Fund at the end of any fiscal year are projected to exceed the cost of providing enhanced 9-1-1 services as authorized in paragraphs (1) through (8) of this subsection;

(C) The cost of providing services referred to in subparagraph (B) of this paragraph includes a reserve amount equal to at least 10 percent of the previous year's expenditures; and

(D) Funds for such purposes are distributed pursuant to an intergovernmental agreement between the local governments whose citizens are served by the emergency 9-1-1 system proportionately by population determined by using the most recently completed United States decennial census figures."

## SECTION 2.

Code Section 50-18-72, relating to exceptions to the requirement for disclosure of public records, is amended by adding to subsection (a) a new paragraph to read as follows:

"(2.1)(A) As used in this paragraph, the term 'natural disaster' means any natural disaster for which a state of emergency is proclaimed by the Governor.

(B) Records of an emergency 9-1-1 system containing audio recordings when:

(i) Such audio recordings consist of or contain the personal suffering leading up to the death of a victim of a natural disaster, including expressions of physical pain, distress, or terror; and

(ii) Public dissemination of such records would cause emotional distress to the person whose suffering was so recorded or to the family of such person.

(C) Records described in this paragraph shall be exempt from disclosure under this article by the law enforcement agency or other agency in possession; and if such records are used in evidence in any judicial or administrative proceeding, the tribunal may place such records under seal or otherwise prohibit their reproduction or distribution.

(D) This paragraph shall not prohibit disclosure of such material to the deceased's next of kin or to an individual who has secured a written release from the next of kin. It shall be the responsibility of the next of kin to show proof of the familial relationship. For purposes of such access, the deceased's next of kin shall be:

(i) The spouse of the deceased if living;

(ii) If there is no living spouse of the deceased, an adult child of the deceased; or

(iii) If there is no living spouse or adult child, a parent of the deceased.

(E) Subject to the provisions of subparagraph (F) of this paragraph, in the case of closed criminal investigations a superior court may order the disclosure of such recordings upon findings in writing that disclosure is in the public interest and outweighs any privacy interest that may be asserted by the deceased person's next of kin. In making such determination, the court shall consider whether such disclosure is necessary for public evaluation of governmental performance and the seriousness of the intrusion into the family's right to privacy. In any such action, the court shall review the recordings in question in camera with the custodian of crime scene materials present and may condition any disclosure on such condition as the court may deem necessary to accommodate the interests of the parties.

(F) Prior to releasing any recordings described in subparagraph (B) of this paragraph, the custodian of such material shall give the deceased person's next of kin at least two weeks' notice. No court shall order a disclosure pursuant to subparagraph (E) of this paragraph which would disregard or shorten the duration of such notice requirement.

(G) The provisions of this paragraph shall apply to all undisclosed material which is in the custody of a state or local agency on the effective date of this subsection and to any such material which comes into the custody of a state or local agency after such date.

(H) This paragraph shall not apply to disclosure of crime scene material to counsel representing a convicted defendant in a habeas corpus action pursuant to Chapter 14 of

Title 9, on an extraordinary motion for new trial under Code Section 5-5-40 or 5-5-41, or in a federal habeas corpus action under Section 2254 or 2255 of Title 28 of the United States Code for the purpose of preparing to file or litigating such proceedings. Counsel may disclose such materials to his or her client and any expert or investigator assisting counsel but shall not otherwise disseminate such materials, except to the extent they may be necessary exhibits in court proceedings. A request pursuant to this subparagraph shall clearly state that such request is being made for the purpose of preparing to file and litigate proceedings enumerated in this subparagraph."

### **SECTION 3.**

All laws and parts of laws in conflict with this Act are repealed.